

***United States Court of Appeals
for the Second Circuit***



APPENDIX

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Workers' Compensation Programs

1515 Broadway (At West 44th St.)
New York, N.Y. 10036

June 25, 1975

File No.

A2-104986

Re: Louis Teplitsky
Inj: 12/11/63



Albert M. Aronowitz, Esq.
22 East 40th Street
New York, N. Y. 10016

Dear Mr. Aronowitz:

Your letters of October 28, 1974, and February 5, 1975, have just come to my attention as has your letter of April 2, 1975, to Mr. Teplitsky.

The position of this office is that as stated in my letter of March 10, 1975, to Congressman Bingham, copy enclosed.

We appreciate your efforts in this matter but it is our conclusion, after reviewing the information you have submitted, that we cannot change our previous decision.

Your application for reconsideration is formally denied.

Sincerely,

JOHN D. McLELLAN JR.
Deputy Commissioner

cc: Mr. Teplitsky

Enc.

TO MR. TEPLITSKY: This acknowledges
your letter of February 6, 1975.

Louis Teplitsky
2136 Wallace Ave.
Bronx, N. Y. 10462

FILE NO. A2-104986

January 30, 1976

The Honorable John D. McLellan, Jr.
Deputy Commissioner
U.S. Dept. of Labor, Bureau Employees Compensation
1515-Broadway, N. Y. N. Y. 10036

Dear Commissioner McLellan

I shall appreciate that you be so kind, to Respond to the following... I have been Formally-Examined, by a Bureau Psychiatrist. Since December 3, 1966, neither was I Formally Examined by a Neurologist, concerning the Excruciating and Persistent Grain pain (left) on June 20, 1968 Dr. J. M. Farnell, Chief Surgeon Marine Hospital Examination...

The Washington Bureau July 8, 1970 Statement, as well as U.S. Employees Appeal Board Feb. 9, 1971 Judgment, was Primarily Based, on your December 27, 1966 letter you addressed to me... Since then the Veteran Admin. had Administered on Sept. 18, 1973 An Un-Bias-Impartial, Neurological Diagnosis that the Left Inguinal Nerve has been Permanently Damaged. On the Basis of said Diagnosis and Marine Hospital Medical Report, to the V.A. An Official Ruling was made by the Regional V.A. Director Mr. Nugent, that my World War II Nervous or Functional injury is "Directly Attributable to military Service"... On May 3, 1974... I Formally Request - 1 - That your office Direct, that I be Examined by a Neurologist - 2 - That I be Examined by a Psychiatrist - 3 - After the said Examination your Office Reviews the case... concerning the Persistent Excruciating left grain pain...

I shall appreciate an early Response.
Thank you so much

Sincerely Yours

Louis Teplitsky

Louis Teplitsky
2136 Wallace Ave.
Bronx, N. Y. 10462

MAY, 21, 1976

The Honorable
John D. McLellan, Jr.
Deputy Commissioner
U. S. Dept. of Labor
1515-Broadway, N. Y. 10036

FILE NO:
A2-104986

Dear Commissioner McLellan
In Response to your March 15, 1976 letter. I am
Herely Formally Request Again Re-consideration of
my case Based on - New - Evidence - 1976 - Not
Previously considered by your Office...
It contains Two - Private Neurological Diagnosis.
Two - Veterans Adm. Hospitals Neurological Diagnosis
One - Veterans Adm. Surgeon Report - One - Veterans
Adm. Director Regional Office - Re-Affirmation, that
my War II - Nervous or Emotional injury is Attributable
to my military Service, as stated, in its May 3, 1974
Ruling...

After RE-Consideration of said "New Evidence" - That
I Be Placed on the U. S. Bureau's Pay-Roll. Retracted
in to March 8, 1964, for the December 11, 1963 Post
Office injury left groin inguinal Nerve, that made
me Unemployable... Not the War II injury... Please
Expedite this 12 year old Tragic case so the
Plaintiff may have something to Report to Judge
WERKER - By July 6, 1976, U. S. District Court...

Papers enclosed

P.S. L.T.

Thank you so much
Sincerely yours
Louis Teplitsky

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Workmen's Compensation Programs

1515 Broadway (At West 44th St.)
New York, N.Y. 10036

March 15, 1976

File No. A2-104986



Mr. Louis Teplitsky
2136 Wallace Avenue
Bronx, New York 10462

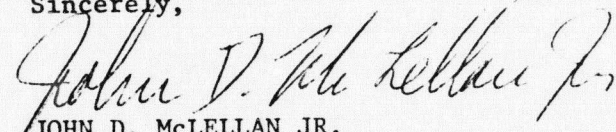
Dear Mr. Teplitsky:

I am writing in reply to your letter of January 30, 1976.

Please refer to my letter of June 25, 1975, denying reconsideration of your case. Since no new evidence was submitted with your letter of January 30, 1976, there is no basis to refer you for a neurologic or psychiatric examination at this time, or to reconsider your case.

If you wish to again request reconsideration, you should submit, together with your request, evidence not previously considered.

Sincerely,


JOHN D. McLELLAN JR.
Deputy Commissioner

Include your address, ZIP code, and file number on all correspondence



VETERANS ADMINISTRATION
OUTPATIENT CLINIC
252 SEVENTH AVENUE
NEW YORK, NEW YORK 10001
March 25, 1976

IN REPLY
REFER TO# 630-136A4-OP

Dr. Keeve Rosenthal
3161 Rochambeau Avenue
Bronx, N.Y. 10467

C- 4 421 835
SS# 567-07-5189
TEPLITSKY, Louis

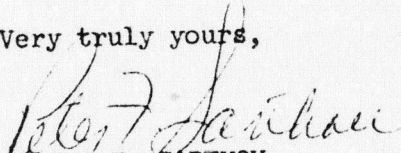
Dear Dr. Rosenthal:

Mr. Teplitsky has requested us to furnish you with medical information in his behalf.

Our records disclose the above veteran was examined on March 24, 1976, at our Outpatient Surgery Clinic. Report notes: There is a well healed left inguinal herniorrhaphy incisional scar. The tissues are firm. There is no evidence of recurrence of the hernia. There is marked tenderness to pressure and palpation in the left inguinal area. The exact reason for these symptoms are difficult to arrive at. However, the attending physician suggest that a neurological evaluation be obtained.

The medical information furnished is privileged and is not to be divulged to unauthorized persons.

Very truly yours,


PETER F. SARTHOU
Asst. Chief, Med. Admin. Serv.

Show veteran's full name, VA file number, and social security number on all correspondence.



VETERANS ADMINISTRATION

HOSPITAL

First Avenue at East 24th Street
New York, New York 10010

March 29, 1976

IN REPLY
REFER TO: 630 (136D1)

Keene Rosenthal, M.D.
3161 Rochambeau Avenue
Bronx, New York 10467

VA File No.:
SS# 567 07 5789
TEPLITSKY, Louis

Dear Dr. Rosenthal:

CLINICAL RECORD		CONSULTATION SHEET	
REQUEST			
TO: <i>Neurology</i>	FROM: (Requesting ward, unit, or activity) <i>000</i>	DATE OF REQUEST <i>3/24/76</i>	
REASON FOR REQUEST (Complaints and findings)			

PROVISIONAL DIAGNOSIS			
<i>? Neuroma in scar of Lt Inguinal Scar</i>			
APPROVED	PLACE OF CONSULTATION	☐ EMERGENCY	
	☐ BEDSIDE ☐ ON CALL	☐ ROUTINE	
CONSULTATION REPORT			

69 y/o Rt handed. c.c. Acute sharp pain's area of Lt groin on coughing, sneezing or change of position. He presents with Hx of 1950 Lt Inguinal Hernia operat 1963 Injured left inguinal area and since then has pain's as presented above. He is on disability since 1964.

Exam: Lt Inguinal Scar (old.) Tender area of left inguinal canal. Cranial Nerves Nystagmus to Lt. Motor System 5+ throughout. Reflexes Sensory Intact. Coordination Normal. Tandem gait. Mental Status Anxious. Alert oriented.

Pt has also arthralgia and Surgery is not contemplated.

DATE <i>3/24/76</i>	IDENTIFICATION NO.	ORGANIZATION	<i>ONEA</i>
REGISTER NO.		WARD NO.	

Teplitzky Louis ACP - Neuro 4W

CONSULTATION SHEET
Standard Form 513
513-101

(Ent 107)



VETERANS ADMINISTRATION
HOSPITAL
FIRST AVENUE AT EAST 24TH STREET
NEW YORK, NEW YORK 10010

Dx Nerve Irritation nature Undetermined. Lt Brig. Genl.

- ① Would like to give Dilaudid for trial
doses. 400 mg day
- ② Surgical Consult for opinion.
- ③ Return 1 month.
- ④ Analgenics Darvon. PBN.

Teplitzky, Louis
57 89

Louis Teplitzky
2136 Wallace Ave.
Bronx, N. Y. 10462

TO BE
FILLED
ONLY IN
Veterans
Administration
Health Care
Facilities

Imprint from Patient Data Card in space above.

R, NUMBER

Please check or circle appropriate block below.

AUTH ABS - 96 HOURS	AUTH ABS + 96 HOURS	INPA- TIENT	EMP	REG DISCH	NBC	PBC	AAA OR HB	CNH	SC	OPT NSC	OTHER FED	AMB. CARE	OTHER
---------------------------	---------------------------	----------------	-----	--------------	-----	-----	-----------------	-----	----	------------	--------------	--------------	-------

R Dilaudid 100 mg. caps.
5: Cap π BID
M: 120

Refill: 1 2 3 4 5

Nonrefill

Another brand, equal in quality, of the same basic drug may be dispensed, UNLESS checked. ☐

Label with medication NAME, STRENGTH, and QUANTITY UNLESS checked. ☐

SIGNATURE AND TITLE OF PHYSICIAN OR DENTIST

DEA NUMBER

DATE

L. Teplitzky E 65 3/24/76

NOTE TO PHARMACIST: Complete Medication Record on reverse BEFORE DISPENSING

VA FORM
OCT 1975 10-25774

PRESCRIPTION FORM

Teplitzky, Louis
5789

TO BE
FILLED
ONLY IN
Veterans
Administration
Health Care
Facilities

Imprint from Patient Data Card in space above.

R, NUMBER

Please check or circle appropriate block below.

AUTH ABS - 96 HOURS	AUTH ABS + 96 HOURS	INPA- TIENT	EMP	REG DISCH	NBC	PBC	AAA OR HB	CNH	SC	OPT NSC	OTHER FED	AMB. CARE	OTHER
---------------------------	---------------------------	----------------	-----	--------------	-----	-----	-----------------	-----	----	------------	--------------	--------------	-------

R Darvon
5: Tab π 4H
M: 100 PRIV

Refill: 1 2 3 4 5

Nonrefill

Another brand, equal in quality, of the same basic drug may be dispensed, UNLESS checked. ☐

Label with medication NAME, STRENGTH, and QUANTITY UNLESS checked. ☐

SIGNATURE AND TITLE OF PHYSICIAN OR DENTIST

DEA NUMBER

DATE

L. Teplitzky E 65 3/24/76

NOTE TO PHARMACIST: Complete Medication Record on reverse BEFORE DISPENSING

VA FORM
OCT 1975 10-25774

PRESCRIPTION FORM



VETERANS ADMINISTRATION HOSPITAL
130 WEST KINGSBRIDGE ROAD
BRONX, NEW YORK 10468

April 20, 1976

IN REPLY
REFER TO:

526-136D1

Doctor Keeve Rosenthal
3161 Rochambeau Avenue
Bronx, New York

VA File No.:

TEPLITSKY, Louis
SS# 567 07 5789

APRIL 20, 1976

Dear Doctor Rosenthal:

Neuro. - Surg.
4/6/76

*Pt. 68 y/o male Clinic (2) groin pain.
Came to clinic for evaluation.
Neurological examination w/1.
Pain requires Sedation
Any lipdome*

- NEUROLOGY -

RTC 2 weeks

- SURGERY -

N/S

4-20-76

*69 y/o w/10" well until 1950
when he underwent Lt inguinal
hernioplasty - Done well until 1963*

PATIENT'S IDENTIFICATION (For typed or written entries give: Name - last, first, middle; grade; date; Hospital or medical facility)

REGISTER NO.

5789

WARD NO.

Teplitzky, Louis

DOCTOR'S BUSINESS NOTES

509
(Rev.)
Admin. &
on Med Records
509-108



VETERANS ADMINISTRATION
HOSPITAL
130 WEST KINGSBRIDGE ROAD
BRONX, NEW YORK 10468

(P. 2)

- NEURO. -

DOCTOR'S PROGRESS NOTES
(Sign all notes)

DATE

W hen while lifting bag in post office developed severe pain Lt inguinal region. Can cough, sneeze - Pt has been unable to work since then periods -

PE ABD, WNT in NAD -

Old scar Lt inguinal region - no swelling or tenderness - local pain severe over lower portion of scar? radiation into left testis - testes ↓ ↓ min. tenderness Lt - no gentle palpation severe pain radiation into the testis - Rectal - prostate semi hard & nodule at lat - no mass -

Reflex Lt, Serratus intact & absent of radiation over scar any - motor in fact -

Imp: Chronic Pain Syndrome & to injury?

Plan - X-ray pelvis, bone scan, IVP, B.E. to R/O Organic

Chronic Pain Syndrome. P & state he will only be fully forwarded to PMD M.D. All & Rother

"THE MEDICAL INFORMATION FURNISHED
IS PRIVILEGED AND IS NOT TO BE
DIVULGED TO UNAUTHORIZED PERSONS"

TELEPHONE 547-0300

JOSEPH ONEL, M. D.
3510 BAINBRIDGE AVE., APT. 1 D
BRONX, N. Y. 10467

TELEPHONE (212) 547-0300

March 26, 1976

Dr. KEEVE Rosenthal
3161 Rochambeau Avenue
Bronx, New York

Re: Louis Teplitsky, M 69

Dear Doctor Rosenthal:

The above named white male was seen at the office on a neurological consultation on 3/22/76 because of pains over the left inguinal area, radiating into the left testicle since 1963.

The patient stated that he underwent a left inguinal herniography in 1950. The was a compensation case. The operation was a success, and he worked without any pain for thirteen years. In March of 1963 while working in the post office, lift up a heavy piece of mail, and pains started at about the middle of the scar tissue, and started to radiate into the left scrotum testicle. He was given a total disability, later, a partial disability, and he feels that they are still responsible for it, and that he is fighting for the injustices that are done to him. He states that he cannot stretch, and any movement produces pains at this site. He never got married.

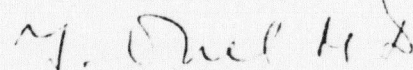
A most detailed neurological examination revealed only supratentorial findings such as left sided hyperalgesia, increase vibration sensation, and cold sensation from top to bottom. However, there was an extremely painful spot which is located at the middle of the old herniography scar, and is sensitive to light touch.

Diagnosis: I believe this person is harboring a neuroma at the operative scar site, and there is no other evidence for neurological disease.

He is referred to Dr. Brodman, surgeon for removal of the neuroma. However, the patient refused to accept it, and wishes to have another neurological opinion to which I have no objection.

Thank you.

Sincerely yours,



Joseph Onel, M.D.

JO:am

SIDNEY ELPERN, M. D.
3184 GRAND CONCOURSE
BRONX, N. Y. 10458
—
TELEPHONE (212) 367-5598

May 17, 1976

Dr. Keeve Rosenthal
3161 Rochambeau Avenue
Bronx, New York

Re: Louis Teplitsky
Exam: 3/26/76
D/A: 12/11/63

Dear Doctor Rosenthal:

The chief complaint is pain in the left groin following lifting a heavy bag in 1963. 12-13 years before a left inguinal hernia was repaired.

An extensive file was submitted to me concerning this pain, its etiology and nature and other matters as suspicion of a para-sellar tumor. Extensive and repeated work-ups are submitted.

He reports continued pain in the affected area, which is aggravated by deep breathing, singing, coughing and extending the right hip.

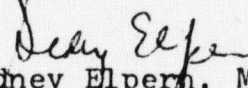
The scar is well healed; there is no evidence of recurrent herniation.

The neurological examination is negative except for superficial tenderness and skin hyperalgesia in the distribution of the left ileo-inguinal nerve.

Before final opinion on this is made repeated examination to discover if these findings are consistent should be made, especially as one report which expressed the same opinion noted variability of this finding.

If the finding is consistent, anesthetic blocking of the nerve could be considered. However, this should be carefully considered because of the long duration of the complaint and chiefly because of his hyper-emotional reaction to the situation.

Very sincerely yours,


Sidney Elpern, M.D.

SE:sr

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

Office of Workers' Compensation Programs

1515 Broadway (At West 44th St.)
New York, N.Y. 10036

May 26, 1976

File No.

A2-104986



Mr. Louis Teplitsky
2136 Wallace Avenue
Bronx, New York 10462

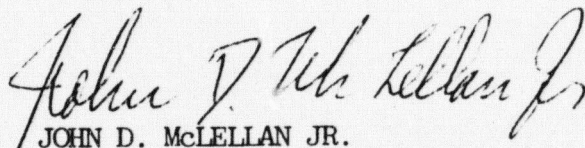
Dear Mr. Teplitsky:

I have reference to your letter of May 21, 1976, with enclosures.

There is no basis to change our previous decision in your case.

Your file is being forwarded to our National Office in Washington, D. C., to respond to the legal action you have brought in Federal Court.

Sincerely,


JOHN D. McLELLAN JR.
Deputy Commissioner

